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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 *In re Ex Parte* Application of
18 PALANTIR TECHNOLOGIES INC.,

19 Applicant,

20 For an Order Pursuant to 28 U.S.C. § 1782 to
Obtain Discovery from MARC L.
21 ABRAMOWITZ for Use in Foreign
Proceedings.

CASE NO.: 3:18-mc-80132-JSC

**MARC L. ABRAMOWITZ'S
ADMINISTRATIVE MOTION TO FILE
DOCUMENTS UNDER SEAL**

Pursuant to Civil Local Rules 7-11 and 79-5, Marc L. Abramowitz (“Abramowitz”) submits this motion for an order to file under seal the confidential, unredacted versions of the following documents:

1. Portions of Abramowitz’s Opposition to Palantir Technologies Inc.’s (“Palantir”) *Ex Parte* Application for an Order Pursuant to 28 U.S.C. § 1782 Granting Leave to Obtain Discovery for use in Foreign Proceedings (“Opposition”);
2. Portions of the Declaration of Stephen L. Wohlgemuth (“Wohlgemuth Opposition Declaration”) in support of the Opposition;
3. The entirety of Exhibits G and H of the Wohlgemuth Opposition Declaration.

This administrative motion is supported by the Declaration of Stephen L. Wohlgemuth (“Wohlgemuth Sealing Declaration”) and the Stipulation Regarding Marc L. Abramowitz’s Administrative Motion to File Documents Under Seal (“Stipulation”), both filed herewith.

The redacted portions of Abramowitz’s Opposition, the redacted portions of the Wohlgemuth Opposition Declaration, and the entirety of Exhibits G and H to the Wohlgemuth Opposition Declaration (“Documents to be Sealed”) discuss information relating to an agreement executed in August 2012 (the “2012 Agreement”). Palantir has indicated that it considers the 2012 Agreement to be confidential.

On September 6, 2018, counsel for Abramowitz sent an email to David Y. Livshiz (counsel for Palantir) to ask whether Palantir opposed Abramowitz’s filing of the unredacted versions of the Documents to be Sealed. On September 7, 2018, Mr. Livshiz responded that Palantir opposed Abramowitz’s public filing of the unredacted versions of the Documents to be Sealed. Palantir and Abramowitz agreed to file a Stipulation, which is filed with Abramowitz’s Administrative Motion to Seal. Therefore, this Administrative Motion to Seal is unopposed.

For documents attached to non-dispositive motions, a party seeking to file a document needs to satisfy the “good cause” standard of Rule 26(c) to warrant preserving the secrecy of confidential information. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006); *Lane v. Wells Fargo Bank, N.A.*, No. 12-cv-04026-WHA, 2013 WL 2627487, at *1 (N.D. Cal. June 11, 2013). The “good cause” standard allows a judge to “protect a party or person from

1 annoyance, embarrassment, oppression, or undue burden or expense” during discovery, such as by
2 issuing an order “requiring that a trade secret or other confidential research, development, or
3 commercial information not be revealed or be revealed only in a specified way.” Fed. R. Civ. P.
4 26(c). Agreements may be sealed if they contain “details regarding [a] business arrangement.” *See*
5 *In re Hydroxycut Mktg. & Sales Practices Litig.*, 2011 WL 864897, at *2 (S.D. Cal. Mar. 11, 2011);
6 *see also Lightning Box Games Pty, Ltd. v. Plaor, Inc.*, No. 17-cv-03764-EDL, 2017 WL 7310782,
7 at *4 (N.D. Cal. Dec. 29, 2017) (“The fact that the judicial records quote or refer to confidential
8 agreements is often a compelling reason justifying sealing if the agreements contain commercially
9 sensitive information.”); *Asetek Holdings, Inc. v. CMI USA, Inc.*, No. 13-cv-00457-JST, 2014 WL
10 12644231, at *2 (N.D. Cal. Sept. 23, 2014) (granting a motion to file under seal both “confidential
11 agreements [in their entirety] setting forth Asetek’s sales relationships and business dealings with
12 Corsair Components, Inc. and Corsair Memory, Inc.” as well as “portions of other documents that
13 reference the agreements.”).

14 Here, Palantir has claimed that it believes the terms of the 2012 Agreement to be
15 confidential. It also claims that the quotes from, and discussions of the substance of, the 2012
16 Agreement that are reflected in the Opposition and Wohlgemuth Opposition Declaration are
17 confidential. If that is correct—and for present purposes Abramowitz takes no position on the
18 issue but reserves his right to do so in the future—filing these documents in their unredacted form
19 would reveal Palantir’s confidential information. Therefore, good cause exists under Rule 26(c) to
20 redact Exhibits G and H in their entirety, as well as all quotes from, and discussions of the
21 substance of, the 2012 Agreement in the Opposition and Wohlgemuth Opposition Declaration.

22 Pursuant to Civil Local Rule 79-5(d), Abramowitz will lodge with the Clerk the Documents
23 to be Sealed, with accompanying chamber copies.

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2 For the foregoing reasons, Abramowitz respectfully requests that the Court enter the
3 accompanying Proposed Order granting Abramowitz's Administrative Motion to File Documents
4 Under Seal.

5 DATED: September 7, 2018

Respectfully submitted,

6 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

7 By: /s/ Jack P. DiCanio
8 Jack P. DiCanio

9 Attorneys for
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